



March 30, 2000

Sergeant Wyman Hopkins  
Administrative Sergeant  
City of Rosenberg  
2120 Fourth Street  
Rosenberg, Texas 77471

OR2000-1235

Dear Sergeant Hopkins:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134068.

The City of Rosenberg (the "city") received a request for case number 00-2635. You claim that the requested information is excepted from disclosure under sections 552.108(a)(2) and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

To establish the applicability of subsection (a)(2), a governmental body must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You inform this office that the investigation at issue "has been concluded, but has not been adjudicated and therefore has not resulted in a conviction or deferred adjudication." Our review of the documents at issue reveals that the status of this case is "inactive". If the city considers the matter closed and intends to take no further action, you may, except as noted below, withhold the information at issue under section 552.108(a)(2).

We note that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, you must release basic front page

offense and arrest report information.<sup>1</sup> We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.<sup>2</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

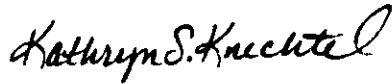
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<sup>1</sup>In this case, you have highlighted portions of the submitted documents you believe are excepted from disclosure. We note, however, that pursuant to *Houston Chronicle* a detailed description of the offense must be released as basic information. See Open Records Decision No. 127 at 4-5 (1976). You must release basic information in accordance with *Houston Chronicle*.

<sup>2</sup>Please note that section 552.130 of the Government Code excepts from disclosure information relating to a driver's license, motor vehicle title, or motor vehicle registration issued by an agency of this state. In addition, section 552.352 of the Government Code imposes criminal penalties for the release of confidential information.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, reading "Kathryn S. Knechtel". The signature is written in a cursive style with a large, stylized "K" and "S".

Kathryn S. Knechtel  
Assistant Attorney General  
Open Records Division

KSK/ljp

Ref: ID# 134068

Encl. Submitted documents

cc: Mr. Oscar Smith  
1316 Radio Lane #33  
Rosenberg, Texas 77471  
(w/o enclosures)